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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fiftieth session
Item 1 (c) of the provisional agenda

METHODS OF WORK OF THE SUB-COMMISSION

Revised working paper on methods of work of the Sub-Commission, submitted by Mr. Ribot Hatano, pursuant to Sub-Commission resolution 1997/16

INTRODUCTION

1. At its forty-ninth session, the Sub-Commission, in its resolution 1997/16, taking note with appreciation of his working paper (E/CN.4/Sub.2/1997/3), decided to entrust Mr. Ribot Hatano with the preparation of a revised working paper containing a compilation of the rules of procedure, guidelines, decisions and practices applicable to the work of the Sub-Commission.

2. The present document is submitted pursuant to said resolution.

3. At the outset, it must be noted that the Sub-Commission is fully aware of the necessity for the following two items to be submitted, through the Commission on Human Rights, to the Economic and Social Council for approval before they become formally applicable to the Sub-Commission:

(a) Any change in the wording of the rules of procedure of the functional commissions of the Council;

(b) Any provision of guidelines, decisions or practices which might substantially affect the rules of procedure. On the other hand, the Sub-Commission construes that guidelines, decisions and practices of a purely supplementary character, not in contradiction with the rules of procedure would be ipso facto applicable to the Sub-Commission without seeking the approval of ECOSOC. It was on this understanding that the author has prepared the present revised working paper.

4. The sessional working group on the methods of work of the Sub-Commission established last year and chaired by Mr. Bossuyt examined the first 38 rules contained in the working paper. Therefore, opinions expressed and agreed upon in the course of that examination have been fully reflected in the present revised working paper.

5. The views of the members expressed during the forty-ninth session of the Sub-Commission have also been taken into account in the preparation of the present paper. Furthermore, due consideration has been given in the present paper to all the comments of the members of the Sub-Commission submitted in writing both during and after the last session of the Sub-Commission.

6. For the first working paper, all decisions and practices were compiled in chronological order, in order to inform the members of their historical development. For example, the Sub-Commission first employed a vote by secret ballot only with regard to the "substance" of country situations (then agenda item 6). Later on, secret ballots were applied to the 1503 procedure (then agenda item 9), and again extended to the "procedure" of the country situation. In the present paper, however, only the final conclusions are incorporated because the author intended that it should be used as "manual" of the whole rules of procedure of the Sub-Commission now in effect.

7. For the convenience of the users, those guidelines, decisions and practices which relate to more than one subject are enumerated, as in the last working paper, under all subjects concerned. For example, a decision providing for "the time limit for the right of reply" is reproduced both under "speaking time" and "right of reply".

8. In order to respect the rules in force governing the limitation of documentation, the texts of the individual rules of procedure have not been reproduced again where no change is proposed. The reader is referred to the previous report or to the publication containing the rules of procedure (E/5975/Rev.1).

REVISED DRAFT COMPILATION OF RULES OF PROCEDURE, GUIDELINES, DECISIONS AND PRACTICES APPLICABLE TO THE SUB-COMMISSION

I. SESSIONS

Rule 1 (Number of sessions)

No change.

Rule 2 (Date of opening)

1. No change.

2. No change.

Practice 1 (Minute of silence)

The Sub-Commission observes, at the opening of each session, a minute of silence in memory of victims of all forms of violations of human rights in all regions of the world.

Rule 3 (Place of sessions)

No change.

Rule 4 (Notification of opening date of sessions)

No change.

II. AGENDA

Rule 5 (Drawing up of the provisional agenda)

1. The Secretary-General, in consultation with the Chairperson of the Sub-Commission (Chairperson) whenever practicable, shall draw up the provisional agenda for each session.

2. The provisional agenda shall include all items required by these rules as well as items proposed by:

(a) The Sub-Commission at the previous session;

(b) The General Assembly;

(c) The Economic and Social Council;

(d) The Commission on Human Rights;

(e) The High Commissioner for Human Rights.

2. bis The provisional agenda may include, when the Secretary-General and the Chairperson fully agree, such items as proposed by:

(a) A working group of the Sub-Commission;

(b) The Chairperson;

(c) A member of the Sub-Commission;

(d) The Secretary-General;

(e) A specialized agency, subject to rule 72;

(f) A non-governmental organization, subject to paragraph 4 of this rule.

3. The items proposed for inclusion in the provisional agenda pursuant to paragraph 2 bis shall be submitted with explanatory notes and relevant background documents to the Secretary-General not less than seven weeks before the opening of each session.

4. (i) Non-governmental organizations having general consultative status may propose item(s) for the provisional agenda provided that the organization that intends to propose such item(s) shall inform the Secretary-General of such intention at least nine weeks before the opening of the session, and before formally proposing item(s) shall give due consideration to any comments the Secretary-General may make;

(ii) Item(s) proposed in accordance with the provisions of this paragraph shall be included in the agenda of the Sub-Commission if approved pursuant to rule 7.

Rule 6 (Communication of provisional agenda)

1. The Secretary-General shall communicate to all members of the Sub-Commission the annotated provisional agenda, not less than six weeks before the opening of the session.

2. In exceptional circumstances, the Secretary-General may, for reasons to be specified in writing, transmit the basic documentation relating to items of the provisional agenda not less than four weeks before the opening of the session.

Rule 7 (Adoption of the agenda)

No change.

Rule 8 (Revision of the agenda)

No change.

Rule 9 (Draft provisional agenda for subsequent session)

No change.

III. REPRESENTATION

Rule 10 (Terms of office of members)

Unless the Council decides otherwise, the term of office of members of the Sub-Commission shall begin when they are elected at the election held biennially by the Commission on Human Rights and shall end when they are not elected at the election held four years later by the said Commission.

Practice 2 (Definition of "members")

In the Sub-Commission, the term "members" is used to mean both "experts and their alternates" and "experts or their alternates", as the case may be.

Rule 11 (Representatives)

Not applicable.

Rule 12 (Rights of representatives pending confirmation)

Not applicable.

Rule 13 (Alternates)

1. Each member of the United Nations may designate an "alternate" to act in place of an "expert" to be elected together with the "expert" at the election provided for in rule 10. When acting as "expert", the "alternate" so designated shall have the same status as an "expert", including the right to vote.

2. Not applicable.

Practice 3 (Alternates)

1. Alternates may attend all the meetings of the Sub-Commission, both public and private, together with their respective experts.

2. Alternates may be elected as officers or special rapporteurs only when appropriate experts are not available.

3. Alternates may not replace their respective experts who are acting as the Chairperson or Rapporteur, unless the Sub-Commission decides otherwise.

4. Alternates may not take the seats of their respective experts who are on the podium.

Rule 14 (Advisers)

Not applicable.

Practice 4 (Advisers/Assistants)

Experts may be accompanied by their advisers and/or assistants during the public meetings, if necessary.

IV. OFFICERS

Rule 15 (Election of officers)

At the commencement of the first meeting of a regular session, the Sub-Commission shall elect, from among its members, a Chairperson, three Vice-Chairpersons without priority among themselves, and a Rapporteur.

Practice 5 (Rotation of officers)

1. The Chairperson will be elected from the five geographical regions in accordance with the following order starting from 1998, unless the Sub-Commission decides otherwise: Asia, Africa, Eastern Europe, Western Europe and others, Latin America.

2. The Rapporteur will be elected from the five geographical regions in accordance with the following order starting from 1998, unless the Sub-Commission decides otherwise: Eastern Europe, Asia, Latin America, Africa, Western Europe and others.

Rule 16 (Term of office)

1. No change.

[2. Deleted]

2. The Vice-Chairpersons may be eligible for immediate re-election.

[3. Becomes paragraph 2]

Rule 17 (Acting Chairperson)

1. No change.

2. No change.

Rule 18 (Powers of the Acting Chairperson)

No change.

Rule 19 (Replacement of the Chairperson or other officers)

No change.

Rule 20 (Voting rights of the officers)

The Chairperson shall have the right to vote.

Practice 6 (Possible waiver of the voting right)

1. The Chairperson of the Sub-Commission may refrain from exercising his or her voting right, unless the Sub-Commission decides otherwise. This rule does not apply to the Chairpersons of working groups.

2. The Vice-Chairpersons not acting as Chairperson and the Rapporteur may exercise their voting rights.

V. SUBSIDIARY ORGANS

Rule 21 (Establishment of working groups)

1. No change.

2. With the prior approval of the Council and in agreement with the Secretary-General, such working groups may be authorized to meet while the Sub-Commission is not in session.

3. The members of the working groups of the Sub-Commission shall be nominated by the Chairperson, at the recommendation of the five geographical regions and with the approval of the Sub-Commission.

New proposal 1 (decision 1998/101, if adopted) (Geographical distribution of Chairpersons of working groups)

At the election of its Chairperson/Rapporteur each working group shall pay due consideration to the geographical distribution, taking into account the nationalities of the Chairpersons/Rapporteurs already elected in other working groups.

Rule 22 (Establishment of Sub-Commissions)

Not applicable.

Rule 23 (Officers)

No change.

Practice 7 (Chairperson/Rapporteur)

1. In principle, the working groups are expected to elect a Chairperson and a Rapporteur.

2. The working groups, however, may elect, at their own discretion, only one person to serve as Chairperson-Rapporteur.

Rule 24 (Rules of procedure)

No change.

VI. SECRETARIAT

Rule 25 (Duties of the Secretary-General)

1. No change.

2. No change.

3. No change.

Rule 26 (Duties of the Secretariat)

No change.

New proposal 2 (decision 1998/102, if adopted) (Immediate circulation of documents)

1. As soon as studies, working papers and any other documents become ready for circulation in any one of the working languages, the Secretariat shall send them immediately to the members of the Sub-Commission, in accordance with their preference of language registered with the Secretariat, without waiting for the translation into the other two working languages.

2. The Secretariat shall send to the members of the Sub-Commission the following documents at least four weeks prior to the starting of the session:

(a) Annotated agenda and other documents related to the session;

(b) Studies, working papers and any other documents submitted to the Secretariat at least 10 weeks prior to the start of the session.

Rule 27 (Statements by the Secretariat)

No change.

Rule 28 (Estimate of expenditure)

1. No change.

2. No change.

VII. LANGUAGES

Rule 29 (Official and working languages)

No change.

New proposal 3 (decision 1998/103, if adopted) (Registration of preference of working language)

The members of the Sub-Commission shall register with the Secretariat in which working language they wish to receive the studies, working papers and any other documents.

Rule 30 (Interpretation)

No change.

Rule 31 (Languages of records)

No change.

Rule 32 (Languages of resolutions and other formal decisions)

No change.

VIII. RECORDS AND REPORTS

Rule 33 (Sound recordings of meetings)

No change.

Rule 34 (Summary records of meetings)

Summary records of meetings of the Sub-Commission or its working groups shall be provided, unless the Council decides otherwise.

Rule 35 (Records of public meetings)

1. No change.

2. No change.

Rule 36 (Records of private meetings)

No change.

Rule 37 (Report to the Commission)

No change.

Rule 38 (Communication of formal decisions and reports)

No change.

IX. PUBLIC OR PRIVATE MEETINGS

Rule 39 (General principles)

No change.

Practice 8 (Private meetings)

1. The Sub-Commission shall consider the agenda item under the 1503 procedure in private meetings.

2. The Sub-Commission earmarks at least one private meeting during each session in order to consider the methods of work and other subjects only among its members.

New proposal 4 (decision 1998/104, if adopted) (Item on human rights situations)

The Sub-Commission shall hold private meetings, under the agenda item on "human rights situations", immediately after the exhaustion of the list of observer speakers, including those exercising the right of reply, so that the members may be able to exchange their views freely and openly while their memories are still fresh.

X. CONDUCT OF BUSINESS

Rule 40 (Quorum)

No change.

Guideline No. 13 (Schedule of meetings)

In accordance with an established practice, meetings not devoted to the adoption of resolutions and decisions shall begin at the scheduled time even if a quorum is not present. However, if a member so requests, the meeting may not be called to order until there is a quorum.

Rule 41 (General powers of the Chairperson)

1. No change.

2. No change.

Rule 42 (Points of order)

1. No change.

2. No change.

New proposal 5 (decision 1998/105, if adopted) (Limit on point of order)

A member may not raise a point of order in such a way as to interrupt the presentation of another member's point of order, unless the first member is speaking on the substance of the matter under discussion.

Rule 43 (Speeches)

1. No change.

Practice 9 (Loss of speaking rights)

Those observers who are not present in the meeting when their names are called by the Chairperson shall lose the right to speak on the agenda item under consideration.

Practice 10 (Exception in the order of statement)

1. Under the agenda item on "human rights situations", non-governmental organization (NGO) observers might be requested to speak, in accordance with the Chairperson's instruction, not in the order in which they inscribed their names in the speakers' list, but together with other NGOs wishing to speak on the human rights situations in the same country.

2. Debates shall be confined to the question before the Sub-Commission and the Chairperson may call a speaker to order if his or her remarks are not relevant to the subject under discussion.

3. The Sub-Commission may limit the time allowed to speakers and the number of times each member may speak on any question; permission to speak on a motion to set such limits shall be accorded only to two members favouring and to two opposing such limits, after which the motion shall be put to the vote immediately. Interventions on procedural questions shall not exceed five minutes unless the Sub-Commission decides otherwise. When debate is limited and a speaker exceeds the allotted time, the Chairperson shall call him or her to order without delay.

Guideline No. 14 (Order of statements)

No change.

Guideline No. 15 (List of speakers)

1. No change.

2. No change.

Guideline No. 16 (Speaking time)

At the beginning of each session, the Chairperson shall invite participants to respect the speaking time allocated for each agenda item in accordance with the following rules, unless the Bureau decides otherwise.

(a) Members of the Sub-Commission:

(i) Twenty minutes maximum, which may be divided into one or several statements.

(ii) Thirty-five minutes maximum, for the presentation of a study or a working paper, to be divided by the author between explanatory remarks and the conclusion.

(b) No change.

(c) No change.

Supplement to guideline No. 16 (Speaking time and sequence of speakers)

1. Speaking time

(a) Maximum speaking time under the agenda item on "human rights situations" shall, for all observers, be determined by dividing equally the time allocated to observers by the number of speakers who have signed up before the closure of the list. The closure should be set at 18.00 hours on the day before the opening of debate on that agenda item. Should several observers on the list subsequently agree to make a joint statement, the time of the chosen speaker can be extended. Four meetings shall be allocated for the presentations by the observers referred to above, to speak on the agenda item on "human rights situations";

(b) The supplementary guideline under (a) also applies to government observers who wish to provide information on human rights developments in their countries, provided they have signed up before the closure of the list mentioned. Under the agenda item on "human rights situations", governmental observers shall not address the human rights situations in countries other than their own;

(c) Speaking time for government observers exercising the right of reply is additional to time used by that observer under (a) and shall be a maximum of five minutes, unless the number and content of allegations directed against that Government warrant the allocation of more time, to be decided by the Chairperson at the request of the observer concerned. The right of reply shall normally be exercised after the exhaustion of the list of speakers mentioned under (a), but can, in exceptional circumstances with the permission of the Chairperson, be exercised earlier.

2. Allocation of time and sequences of speakers

The allocation of time under the agenda item on "human rights situations" shall be based on the principle that observers on the list mentioned under point 1 (a) speak first, until the list is exhausted, followed by government observers exercising their right of reply. Members of the Sub-Commission should normally speak at the end, it being understood that government observers can also exercise their right of reply to the statements made by the members of the Sub-Commission.

Practice 11 (Principle of "once for all")

1. An NGO observer may not speak twice under the same agenda item, even if he/she represents more than one NGO.

2. Once an observer has raised a particular issue on a "human rights situation" under one agenda item, he or she may not raise the same issue under another agenda item.

Rule 44 (Closing of list of speakers)

No change.

Guideline No. 15 (List of speakers) <repetition>

1. No change.

2. No change.

Supplement to guideline No. 16

The closure of the list of speakers should be set at 18.00 hours on the day before the opening of the agenda item on "human rights situations".

Rule 45 (Right of reply)

No change.

Supplement to guideline No. 16

No change.

Rule 46 (Congratulations)

No change.

New proposal 6 (decision 1998/106, if adopted) (Self-restraint)

Further congratulations should be avoided and/or abbreviated, insofar as possible.

Rule 47 (Condolences)

No change.

Rule 48 (Suspension or adjournment of the meeting)

No change.

Rule 49 (Adjournment of debate)

No change.

Rule 50 (Closure of debate)

No change.

Rule 51 (Order of motions)

No change.

Rule 52 (Submission of proposals and substantive amendments)

No change.

Rule 53 (Withdrawal of proposals and motions)

No change.

Rule 54 (Decisions on competence)

No change.

Rule 55 (Reconsideration of proposals)

No change.

XI. VOTING AND ELECTIONS

Rule 56 (Voting rights)

No change.

Rule 57 (Request for a vote)

No change.

Rule 58 (Majority required)

1. No change.

2. No change.

Rule 59 (Method of voting)

1. No change.

2. No change.

Decision 7 (1997/107) (Secret ballot)

Any vote requested on a proposal pertaining to allegations of violations of human rights in a particular country, under any agenda item, including a proposal of a procedural nature relating to the proposal of a substantive nature, shall be made by secret ballot.

Rule 60 (Explanation of vote)

Members may make brief statements consisting solely of the explanation of their votes, before the voting has commenced or after the voting has been completed. The member sponsoring a proposal or motion, unless it has been amended, may not speak to explain the vote thereon.

Practice 12 (Prohibition of explanation of vote)

Members may not speak in explanation of vote, either before or after voting, when the vote is made by secret ballot.

Rule 61 (Conduct during voting)

No change.

Rule 62 (Division of proposals and amendments)

No change.

Rule 63 (Amendments)

No change.

Rule 64 (Order of voting on amendments)

No change.

Rule 65 (Order of voting on proposals)

1. No change.

2. No change.

Rule 66 (Elections)

No change.

Rule 67

1. No change.

2. No change.

Rule 68 (Equally divided votes)

No change.

XII. PARTICIPATION OF NON-MEMBERS OF THE SUB-COMMISSION

Rule 69 (Participation of States Members of the United Nations)

Any State Member of the United Nations may send its representative to public meetings of the Sub-Commission as a government observer without the right to vote.

Rule 70 (Participation of national liberation movements)

Any national liberation movement recognized by or in accordance with resolutions of the General Assembly may send its representative to public meetings of the Sub-Commission as an observer without the right to vote.

Rule 71 (Participation of specialized agencies)

Any specialized agency may send its representative to public meetings of the Sub-Commission as an observer without the right to vote.

Rule 72 (Consultation with specialized agencies (1))

Before agreeing with the Chairperson of the Sub-Commission on the inclusion of any item proposed by a specialized agency in the provisional agenda of the Sub-Commission, the Secretary-General shall carry out with the agency concerned such preliminary consultation as may be necessary.

Rule 73 (Consultation with specialized agencies (2))

1. No change.

2. No change.

3. No change.

Rule 74 (Participation of other intergovernmental organizations)

Any intergovernmental organization accorded permanent observer status by the General Assembly and of other intergovernmental organizations designated on a continuing basis by the Council or invited by the Commission may send its representative to public meetings of the Sub-Commission without the right to vote.

XIII. CONSULTATION WITH AND REPRESENTATION OF NON-GOVERNMENTAL ORGANIZATIONS

Rule 75 (Representation)

No change.

Rule 76 (Consultation)

1. No change.

2. No change.

XIV. AMENDMENT AND SUSPENSION OF RULES OF PROCEDURE

Rule 77 (Method of amendment)

No change.

Rule 78 (Method of suspension)

No change.

XV. PREPARATION OF STUDIES

Guideline No. 1 (Regulation of the number of studies)

1. No change.

2. No change.

3. When the number of studies proposed for a decision exceeds 13, the members of the Sub-Commission should hold consultations amongst themselves in order to establish priorities.

Guideline No. 2 (Document preliminary to the studies)

1. No change.

2. The preparation of a preparatory document shall in no way prejudge the decision finally taken concerning the authorization of the study and the person to be designated to carry it out.

Guideline No. 3 (Duration of studies)

1. Unless there are special circumstances connected with the nature of the subject under study, the period of time for carrying out a study should be three years from the time of its authorization. It should comprise, in addition to the phase of the working paper, the following three phases: a preliminary report, a progress report and a final report.

2. If at any time during his or her mandate the rapporteur considers that, as a result of difficulties encountered by him or her, he or she will need more than three years to complete the study, he or she should submit the question to the Sub-Commission for consideration in the context of the open debate on the agenda item in question.

Guideline No. 4 (Appointment of special rapporteurs)

1. The specialized knowledge of the various members of the Sub-Commission should be taken into account when appointing special rapporteurs, due regard being had for equitable geographical distribution. The members of the Sub-Commission should hold consultations during the session to coordinate the topics of new studies and the appointment of the members who will be responsible for them. To this end, the Rapporteur of the Sub-Commission shall be entrusted with the task of collecting proposals for studies that are made during the session and reporting to the Sub-Commission in due time, for the purpose of agreeing and deciding on them.

New proposal 8 (decision 1998/108, if adopted) (Time limit for the submission of documents)

1. Special Rapporteurs and other members who are entrusted with the task of preparing studies, working papers and any other documents for the Sub-Commission shall submit them to the secretariat at the latest 10 weeks prior to the session.

2. Studies, working papers and any other documents which were not submitted within the above time limit may not be considered, unless the Sub-Commission decides otherwise, during the coming session.

Guideline No. 5 (Appointment of commentators)

1. No change.

2. No change.

3. No change.

Guideline No. 6 (List of studies)

No change.

Guideline No. 7 (Follow-up of studies)

No change.

XVI. RESOLUTIONS AND DECISIONS

Guideline No. 8 (Number of resolutions and decisions)

In order to permit a better assessment of trends with regard to the number of resolutions and decisions and to promote self-discipline for the purpose of reducing their number, the secretariat shall provide, at each session of the Sub-Commission, a comparative table for the previous three years showing the number of resolutions and decisions considered by category, as follows:

(a)-(g) No change;

(h) Others.

Guideline No. 9 (Self-discipline)

At the beginning of each meeting, the Chairperson shall invite the secretariat to inform the Sub-Commission of the number of resolutions and decisions registered in order to encourage self-discipline in this respect.

Guideline No. 9 (bis) (Consultation)

If the total number of intended resolutions and/or decisions exceeds the desirable number, the Chairperson will consult with those members who intend to submit more than one resolution and/or decision so that a balance may be maintained among the members.

Guideline No. 10 (Co-sponsors)

No change.

Guideline No. 11 (Consultations by the Chairperson)

No change.

Guideline No. 12 (Deadline for submission of draft resolutions or decisions)

No change.

XVII. AGENDA ITEM ON HUMAN RIGHTS SITUATIONS

Supplement to guideline No. 16

Same text as above (see page 12).

Practice 13 (Order of consideration)

The agenda item on "human rights situations" should be considered two days after the adoption of the agenda (see decision 1995/113).

XVIII. AGENDA ITEM ON 1503 PROCEDURE

Council resolution 1503 (XLVIII) (1503 procedure)

Consideration of the procedure provided for in Council resolution 1503 (XLVIII) shall be made in private meetings.

Proposed decision 7 (Secret ballot)

See text on page 14 above.

New proposal 9 (Decision 1991/109, if adopted) (Loss during Second World War) (Sub-Commission decision 1991/104)

The procedure governed by Council resolution 1503 (XLVIII) could not be applied as a reparation or relief mechanism in respect of claims of compensation for human suffering or other losses which occurred during the Second World War.